IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 8984 OF 2005

Jashada J. Bhattad & Anr. ..Petitioners

versus

The State of Maharashtra & Ors. ..Respondents

Shri A. P. Lawate with Shri K. Chothani Advocate for the Petitioner.

CORAM : R.M.S. KHANDEPARKAR &
NARESH H. PATIL, JJ.

DATE : 22ND AUGUST, 2006

P.C. :

1. Heard.

2. The Award passed by the Land Acquisition Officer under Section 11 of the Land Acquisition Act, 1894, is sought to be challenged on two grounds. Firstly, that there was no individual notice issued for the purpose of hearing under Section 5A of the said Act, and, secondly, though initially the acquisition was shown to be of 8.92 sq. metres, actual area which was acquired was 53.70 sq. metres.

3. As regards the first contention, the provisions of law nowhere requires individual notices to be issued after Notification under Section 4 of the said Act. It is only those who file objections to such acquisition pursuant to the publication of Notification under Section 4 within 30 days therefrom are required to be issued individual notices for personal hearing under Section 5A(2) of the said Act. Undisputedly, the petitioner had not filed such written objections pursuant to the publication of notification.

4. As regards second contention, undisputedly, the land which has been acquired and in respect of which Award has been passed is not in excess of the land which was declared under Section 6 of the said Act. Merely because initially the area to be acquired was disclosed lesser than the area which was ultimately disclosed in Notification under Section 6, that would not, in any manner, render the acquisition to be bad in law. The exact area which is required for the purpose specified in Notification under Section 4 of the Act is to be ascertained in the enquiry under Section 5A and

based on enquiry, the report submitted by the Land Acquisition Officer / Collector, to the Government. Ultimately, the Government has to take decision as to exact requirement of the area and based on such decision the Notification under Section 6 of the said Act, has to be issued.

5. Once it is not in dispute that the area which has been subject matter of the Award is in consonance with the area disclosed in the Notification issued under Section 6, the question of holding the Award to be bad in law, does not arise at all.

6. As no other ground is canvassed for challenging the impugned award, no interference is called for in exercise of writ jurisdiction. Petition is therefore rejected.

(R.M.S. KHANDEPARKAR, J.)

(NARESH H. PATIL, J.)